IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.409 OF 2006
IN
CIVIL APPLICATION NO.53 OF 2006
IN
CIVIL APPLICATION NO.4588 OF 2005
IN
FIRST APPEAL NO.21776 OF 2005

Moinulhaque Chishty. ..Applicant.

V/s.

Valiul Hasan Quadri & Anr. ..Respondents.

Mr.J.G.Shukla i/b M/s.G.H.Shukla co. for applicant.

CORAM: A.M.KHANWILKAR,J

DATE : JANUARY 31, 2006.

P.C. :

1. The explanation offered in the application is unacceptable. It is incomprehensible that Item at Sr. No.262A will be called out before it is due. Learned counsel for the applicant submits that he was personally present in the court and reiterates that the matter was not called out as per its serial number notified on the supplementary board. It is not possible to accept this submission. Suffice it to observe that explanation offered in the application is unacceptable. As per the court record matter was called on two different occasions and on both the occasions advocate remained absent. Hence

the application should be rejected. However, as the litigant should not suffer for the mistake of the advocate, application is allowed in terms of prayer clause (a) on condition that the advocate on record for the applicant personally to pay costs to the High Court Legal Services Committee being Rs.1,000/- within one week and produce the receipt before the registry, failing which the registry to proceed on the assumption that the application is dismissed for non-prosecution.

2. If costs is paid in time, civil application No.53 of 2006 be placed for orders in the following day.